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Your 1204.

While we recognize answers to questions raised by Brentano can only be developed in course of forthcoming consultations, we believe following summary of our preliminary views about reply to Soviet notes on Berlin may be helpful.

A. We believe indispensable element of our reply is restatement of our basic position re Germany, including our position re Berlin. Therefore essential reply should contain:

1. Restatement of our determination to maintain our rights and position in Berlin and to uphold existing security and freedom of city.
2. Brief refutation of historical interpretation upon which Soviets attempt base repudiation of Four Power agreements. (We would prefer leave detailed correction of Soviet distortions of history to separate QUOTE white paper UNQUOTE which would/given maximum distribution.)

Drafted by:

EUR:GER:GPA:TIMcKiernan:erk 12/11/58

Telegraphic transmission and classification approved by:

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Clearances:

GER - Mr. Hillenbrand
(in draft)

EE - Mr. Freers
(in draft)

L - Mr. Becker
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3. Restatement of our legal argument that USSR cannot unilaterally abrogate occupation rights of three Western Powers or Four Power agreements and that we shall continue to hold USSR responsible under those agreements.

4. Rejection of Soviet proposal for QUOTE free city UNQUOTE of West Berlin together with explanation of reasons for rejection which will make issues clear.

5. Statement that it is threats of USSR and East German puppet regime which have created existing difficulties in Berlin and have made Berlin focus of international tension and danger for world peace.

6. Statement that problem of Berlin is part of problem of Germany as a whole and that there can be no genuine or lasting solution outside context of German reunification.

7. Reference to notes of September 30, 1958, to which USSR has not replied, and statement of our readiness to resume at any time discussions of German problem broken off after Geneva Conference.

B. While above represents minimum which reply must contain, we believe reply should also take constructive tone and not be limited to mere restatement of our position and rejection of Soviet position. In addition making underlying issues and our position clear, we believe our reply should recognize interrelation of problems of Berlin, German reunification, European security, and disarmament and should seize opportunity for new diplomatic offensive on this complex of questions. We further believe our reply should be formulated to offset influence which Soviet note may have had on those elements of world opinion which are unfamiliar or unconcerned about Berlin situation and may thus think Western position is unduly rigid. Therefore believe it

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desirable our reply contain some or all of following:

1. Proposal for conference of Four Foreign Ministers at stated time and place to discuss problem of Germany and/or security of Berlin within framework of European security and disarmament problems.
2. Indication of some superficial, if not substantial, modification of our previous position re German reunification.
3. Following reiteration of our position re responsibility of Four Powers for Berlin, statement of our willingness discuss with Soviets ways and means of reducing tension in Berlin and improving conditions for Berlin population.
4. Summary of real problems of Berlin which, if Soviets wished make positive contribution, could properly be made subjects for Four Power discussions. Summary should stress maintenance of Berlin's unity, freedom, and security; freedom of Berlin's transport and communications; and free determination by population of Berlin both of political and economic regime within city and of city's political relationships with other parts of Germany.
5. After statement that we recognize achievement of reunification may be long and difficult, proposal that Ambassadors of Four Powers in Germany, assisted by German experts, meet regularly to consider interim measures to minimize hardships which prolonged division of country imposes on population, e.g. to study possibility of assuring freedom of movement from one part of Germany to another, possibility of improving interzonal transport facilities, etc.
6. Statement of our readiness to submit legal dispute with USSR over status of Berlin to International Court of Justice for adjudication.

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C. If joint decision meanwhile reached to revise our contingency planning to avoid dealing with GDR officials, our reply might also, after appropriate reference to six-month deadline set in Soviet note, convey to USSR warning of our intentions as set forth in para A of alternative course of action proposed in DEPTTEL 1236 to Bonn.

Hester

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